

# Missiskoui



# Standard.

J. M. FERRES, EDITOR.

Let Justice preside and Candour investigate.

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## PROVINCIAL PARLIAMENT

### House of Assembly.

February 1st. 1836.

The order of the day for the consideration of the motion of Mr. Bedard of the 29th January, that it should be an instruction to the Permanent committee of grievances, to require Mr. A. M. Hart to specify the different subjects of complaint that he might have against Mr. Justice Bowen.

Mr. Gugy.—As he could not have in the house as much facility, as in a general committee, of answering those hon. members who considered the question in a different light from himself, moved, that the house do resolve itself into committee.

The house resolved into committee.

Mr. Bedard said to avoid a repetition of those observations which have already been made on the subject, he would confine himself to simply asking if it was not just that the accuser of Judge Bowen should fulfil the promise he had himself made in his petition of verifying and proving his accusations, and that the house should oblige him to do justice to the accused; in ordinary cases when the two parties consent to such a course there is no opposition. We are told that parliamentary rules are not to be departed from.

(Here the hon. member was interrupted by the Serjeant at arms, who announced a message from his Excellency the Governor in Chief.)

Mr. Bedard resumed, parliamentary rules we are told are those which it is intended to follow, be it so,—the accused asks to be heard, the house has granted his demand and admits it to be just, it must therefore necessarily not only hear him, but furnish him the means of defending himself, which are not furnished to him, so long as he is not told of what he is accused in terms less vague than his accuser has employed. The hon. Judge who is now spoken of has to this time sustained a good reputation,—asks and has a right to require that he should be told when and where he has been guilty of the odious accusations brought against him. Is it just equitable or reasonable to refuse him this demand? (Here Mr. Bedard referred to precedents in Hatsell, and to the case of the late Judge Bedard, &c.) He was ignorant if the motion was parliamentary, but to make the enquiry perfect, in order that no spot may be found on their proceedings, nor after the enquiry on the hon. Judge, this precedent, if it is one, ought to be established and granted by the house. He defied the accuser of Judge Bowen to prove his accusation, and the accuser of all the Judges to refute the justice of this claim

or to prove the truth of the cases cited in support of the present accusation.

Mr. Gugy.—Man has in all times been more disposed to nourish and encourage abuses than to denounce and expose them between the governors and governed there is always a sympathy which few have the courage to divest themselves of. Thus he was not blind to the terrible responsibility to which he exposed himself in becoming the defender of the oppressed, and the accuser of those he believed to be guilty of serious derelictions so serious that he considered himself a public benefactor in contributing, in so far as in him was the power to remedy such evils. He therefore was the more surprised to see the hon. member for the county of Montmorency, as celebrated for his talents as for his patriotism, throw the weight of his ability and his influence on a side already as invulnerable, and declare in favour of difficulties which were already almost insurmountable. Were there not already enough without him to throw obstacles and embarrass the efforts which are attempted to be made to remedy an abuse! What has the hon. Judge to fear if he is innocent, if the accusations are frivolous and ill founded, if hatred and personal animosity have given rise to charges which cannot be proved—absolutely nothing, the investigation then can only establish his innocence and his triumph,—and the calumny and disgrace of the accuser. The character of Judge as every other public functionary is public property. He who enjoys the honour, the power, and the emoluments which the public confer is subject to be accused of misconduct, not with impunity, but it is for him to show that he is not guilty. When the courts of Justice offer no remedy, when a jury cannot take cognizance of the abuses which are complained of, the assembly, the only competent authority to do so, shall it also refuse to enquire into that which no other authority is competent to do? Shall it also shut its doors because such an investigation may displease or may hurt the feelings and sensibilities of individuals, and that by a sacrifice of the justice, that the public, who is the accuser, has a right to expect from it? Another narrow objection has been made to the investigation, the question is considered as political, as a party question, when it only ought to be looked upon as a question of Justice, and of justice *de dernier resort*. Accusations such as have been brought against this high judicial functionary, who is accused of preventing the sacred ministry of justice he had sworn to dispense, affect all portions of the community.—God forbid that for any such reasons as had yet been adduced the enquiry should be stopped, it was the right and the duty of the house to continue it, and they ought to abstain from embarrassing a question in which the whole country is interested. No one is prepared either to absolve the hon. Judge or to declare that he is guilty....That is not the question, he cannot even be accused until the inquiry is closed. If the functions of the assembly cease, notwithstanding what the learned King's counsel,—(he Mr. G. must crave pardon if he is not King's counsel, he is at least a learned as a King's counsel, can be)....has said to the contrary. The honorable member for Montmorency has told us that the accused cannot defend himself for want of a detail of particulars, or that he must go upon conjecture only, that he must guess the true accusations and the matters with which he is charged. He, Mr. Gugy, would venture to say that ten to one were of a different opinion. Besides, the assembly is ready to give him the opportunity of producing witnesses in his favour, of questioning and cross-questioning those who are opposed to him, & if after evidence has been heard, on one side and the other, accusations are not substantiated the justification will only be the more brilliant and the triumph of innocence will be hailed and proclaimed with joy. It has been said, and the hon. member said he had been reproached out of the house that it was not now the time for him to address himself to the house to obtain justice against a constitutionalist. He answered that it was always time, that whatever political differences might exist, there should be no difference on what regarded the administration of justice; it is and ought to be at all times equal to friend or foe. He had charged himself with the duty of accusing a tyrant, and of seeking a remedy where only a remedy could be found against grievances above the reach of any authority. The case of the late Judge Bedard had been cited, and although he was not prepared to say that which some other hon. members had advanced, he knew that the accusations were rejected, and no disqualification whatever ensued. Had he not thought there were sufficient grounds for instituting an enquiry, he would not have presented the petition of which he had taken charge. He had acted on

conviction, believing that the time was now come when the assembly ought to take up the matter, and notwithstanding the hon. member for Montmorency cites the cases to which he, [Mr. G.] had alluded the other day, in a manner different from what had now been done. He would deny that they differed in the essential features, and he felt able to prove it. In one case he says the entire Bench concurred, so much the worse if that was the case. In court he would not have dared to differ in opinion from the Bench for fear of imprisonment and other pains and penalties, and had he failed to protect himself by adding, 'Your honors will permit me to make such or such an observation' although he was far from thinking that they deserved such respect. But in the house he would say, if the whole four Judges had pronounced the judgments he had cited and of which he complained, they were all four guilty. That circumstance charges nothing, even admitting such to be the case, and there is nothing to prevent me, the hon. member added with emphasis, from accusing them all four in this place. When there is one honest Judge, the others then may serve as a counterpoise to his errors, but when all the four go wrong, then the whole ought to be accused, and here one only is accused. A feeling of despair must arise from such a declaration, which deprives the public of all guarantee for the future. He might be mistaken in what he considered as oppression in one of the cases he had cited and as partiality in another, but he thought not, and, though all the Judiciary of the province should say to the contrary, he should not be convinced. But let it be supposed for an instant that such was the case, that is a reason for presupposing that Mr. Hart cannot establish his accusations. Because he is a young man would they only conditionally grant him the right of proving what he has advanced? Is it proposed to narrow the enquiry and to restrict it within limits so narrow as not to admit of charges beyond what Mr. Hart can say and prove. There is already enough before the committee to justify a continuation of the enquiry, although those gentlemen who have given their evidence have done so against the grain, and in fear of the situation and influence of the functionary accused. He would further ask, even if young Hart could not verify his charges, would they be justified towards their constituents and the country, in abandoning the enquiry? No—they had only to read the *Lex Parlamentaria* where they would find laid down the duties of the representatives to enquire into the conduct of all public functionaries. (Mr. Gugy cited Wallace on Statutes, edition of 1830, p. 307, on the rights of the house of commons.) Because an individual or individuals dare not accuse a public functionary, does it follow the assembly must therefore pass over his misconduct. Such, however, is the position in which it is placed. It is that which it is now wished to induce them to do, because it is an accusation against a high legal functionary,—because the individual censured enjoys consideration and power, we are told the motives may be personal & malicious if the House could enquire into the motives of the accusation of the accuser. Facts only are to be decided upon, and these must be proved before they can affect the accused. Besides if they are to wait till a public functionary is accused on disinterested grounds, they would wait long enough. He only who suffers under the evil will complain; by such a one the malversations he has discovered, if any there are, are denounced. Thus whatever may be the motives or the merit of the accuser, high crimes and political misdemeanors may by him be exposed. Although the Assembly has nothing to do with the nomination of Judges, it belongs to that body to take care that they are not guilty of abuse of office with impunity.

Mr. Papineau—Expressed his surprise that the hon Member for Montmorency should now complain of irregularity and protest against the vague terms of a petition which the House has already proceeded upon by receiving and referring it to a committee. This is pronouncing a censure against themselves, against the house. Another hon member says he should have opposed the reception of the petition when it was presented, had he then had time to reflect, as he has since done, that hatred, malice, or personal animosity might have occasioned its introduction, and that justice cannot be rendered to the accused, unless the accuser is constrained to particularise the facts which he accuses the Judge; this hon. member does not reflect that the question is no longer one between Mr. Hart and Judge Bowen, but that of the whole country against a high public officer, a judicial functionary who is accused of malversation and other grave crimes. One of our fellow subjects accuses him and asks an enquiry. Can or ought the

assembly to refuse it? It would no doubt have been more fit, more in form, and even more satisfactory, if the petition had been more explanatory than it is; if instead of being indefinite and ill drawn, it had been precise and well drawn; but in this after all is only an objection of form and not of fact, and only serves to show a want of precaution in the petitioner, but in no way affects the ground-work. It was probably and indeed from the confession of the hon. member himself, it may be charged that the instruction to the committee now asked for was not proposed when the petition was received, for neither he nor others in any way referred to it; but now that several witnesses have been already heard, at this advanced stage when the Judge has presented a petition to be heard in answer, they suddenly determine to ask that which they did not think necessary at another time. The tardy request of the Judge, to be heard, appears to have produced new light and new convictions; and it is sought to palliate the accusation, to excuse the tardy proceedings of the Judge, by referring to the difficulties he experienced in the council; what may have there been done in no way affects the subject under the consideration of the house, even the fact that he persists, though a Judge, in considering himself a councillor, and that after the government has declared that the puisne Judges should not sit in the council he has sat there, for gain and hire, is a dishonoring spot, and the culpability of having returned to the council, after having abstained to attend for some time, is perhaps in itself a sufficient ground of accusation. At all events it is his own fault if he has come forward so late, and the evil and the consequences whatever they may be, must fall on him. The permission which the council has now granted him, to appear before a committee of the assembly is a tardy confession of the rights of this body, but gives him in no way the privilege of being confronted with the witness—that is granted to him by the assembly as an act of grace and not of right. (Here the hon. Speaker went at some length into the usages of the house of committee appointed to enquire were often the only individuals acquainted with the actual charges brought against a delinquent, especially where his rank was such as might be supposed to influence the fears of those who sought justice, whilst here, he added, it was pretended to subject the house to the rules of ordinary courts and technical forms.) The accused, he said, was allowed the privilege of questioning and cross-questioning the witnesses, and, nevertheless, it is now required that the time and place should be specified where the ground of complaint was given; the next demand, he supposed, would be, that witnesses should only be heard under oath; all these demands were in fact so many censures on the British Constitution, so incessantly held up to them as the model of perfection. Of specific and defined crimes, the law officers of the Crown, the grand juries, and the courts, can and ought to take cognizance, but this cannot be the case with crimes which are not specified and indefinite. The Legislature makes new and separate rules according as new crimes call for them. The petition having been received and referred to a committee, with instructions to enquire into the judicial and public conduct of the accused, is this foreign to the proceedings of the court of parliament? the only court whose precedents that House ought to follow. The hon. Judge Bowen presents himself in the spirit of a chicaner, with his frivolous pretenses; his accuser is a young man, and the special pleader, the man who would defend himself upon exceptions, pretends to think that the house ought to restrain the enquiry to the accusations brought by him, and to reject the testimony already before the committee, and that which others might add to it—before the committee he may oppose vague questions and futile answers, which evil disposed witnesses may make, and he may ask and obtain the necessary time to prepare his defense. The power of a judge being known is it probable that a student in the profession would dare, without good cause, take upon himself the responsibility of such a step, unless actuated by a sense of public justice or suffering under private wrong. His future prosperity, his welfare and his reputation is for ever ruined, if he turns out to be a calumniator of an upright judge, the slanderer of an honest functionary; he is further subject to actions of damages & to exemplary punishment. The House of Commons is our guide, in referring to the precedents there established, there will be found many of a new and indefinite kind, not previously considered as crimes and not specified.—The terms *high crimes and misdemeanours*, are indefinite, and many new crimes which were never heard of before, have been made subjects of accusation by

the Commons and judged by the Lords. Must we here then where the power of the Judges is greater, where they are more powerful than in England, must we be so scrupulous in admitting accusations in the present case. The accusation brought against Mr. Justice Bedard has been referred to.—There passion and the spirit of party provoked the inquiry, the accusation was declared frivolous, but the calumniator was not punished. The Judge enjoyed his reputation; but his calumniator belonged to that privileged class which here holds itself above all constitutional authority, and he escaped punishment.—The young man who now petitions against the Judge, does he find himself so situated, can he attack a high functionary with impunity? It will not be said that he can—whether the accusation is well or ill founded, whether the accuser does or does not prove what he pretends to do, the province by its representatives, has already consented that the public means are applicable to prosecuting the enquiry and establishing its truth or falsehood. It will be a subject of congratulation if the innocence of the Judge is established, but it must not be anticipated by refusing the accusation on a point of form, by restraining it to narrow limits the rights of the House are destroyed, when it is evident that until the enquiry is finished no accusation can be brought. It is an injustice to the committee which is charged with this enquiry to suppose that its members are not guided by justice, or that they would permit improper questions or such as were foreign to the subject to be put. The most ample means of defence are not refused to the accused, but he may be equally compelled to answer for his conduct after twenty years as after twenty days. (Here the Speaker cited the case of Bolingbroke and Oxford.) He may produce witnesses in contradiction of other witnesses, but the labours of the committee must not be declared null and void. To furnish the Judge with a key to his defence ought we to restrain either the accuser or his witnesses? he cannot be sincere in his demand for justice and nothing but justice who avows such a principle. It is difficult to reconcile the evidence given by members in the committee with what others have said in the House. While some declare that the sacred duties of Legislators have led them to ask for the enquiry, there are others who proclaim the perfect integrity of the Judge during a number of years, and declare their sentiments to be corroborated both by those of the Bar and the public; can we, ought we to believe them? Has fear no influence in this? Those who at another time and under other circumstances may, and actually have complained in private of wrongs they have suffered at the hands of the hon. Judge, may have reasons for not avowing them openly and publicly; here they know nothing. This in itself is an additional reason, if further reasons were required, why the Assembly should declare if the accusations now brought are well or ill founded, and above all as there is an attempt, by employing the subtleties of forms, to extort from the House, that it has acted inconsistently and taken a step which justice did not require.

Mr. Bernard spoke against the motion, having sought for precedents (which he quoted) he must confess that he thought it unparliamentary.

Mr. Bernard replied with great warmth, that the remarks which he had heard were unbecoming in the hon. Speaker; from his own elevated situation he ought to show more respect for the character of a Judge, who has as much right to a fair defence as his accuser has to inculpate him; he ought at least to be believed innocent, until he was found guilty. The sarcasms which the hon. Speaker had thrown on the petition of the Judge and on those who support the rights of the petitioner, only deserve to be treated with disdain. The hon. Speaker who never by any chance lets slip an opportunity of proclaiming and claiming for himself the purity of his motives and of his acts, is not disposed to grant to others that virtue which he believes to belong to himself as an inherent right. The moment a member dares to differ from him, his motives are the butt of his severe and unsparring observations; at one time he is under the influence of fear, at another, some other equally unworthy motive is attributed as the cause of his presuming to differ in opinion; as if it was impossible that any one could differ from him for good motives and on conscientious principles. (Mr. Bedard again referred to the case of the late Judge Bedard.) He, the Speaker, says, if there can be shown one single precedent applicable to the motion under consideration, refusing distinctly that which he believes to be justice towards the accused, he will immediately withdraw it. The hon. Judge who is accused of having been tardy in the presentation of his petition, was at

Three Rivers at the time the accusation was brought; since his return he has met with difficulties in the Council, and could not have proceeded otherways, or more promptly without subjecting himself to be placed in the charge of the Sergeant at Arms, and should therefore be absolved of having come tardily before them. No instruction has yet been given. He had found himself in minority when he proposed that Mr. Hart should be called upon to particularise his charges, and before that when the petition presented by the hon. Judge Vallières was discussed, the question of enquiring generally into the conduct of the hon. Judge, was opposed in the committee, because only one particular accusation was before them. He had no desire either to hinder or delay the enquiry, neither did he oppose that which had been advanced that any member might become the accuser of a dishonest (*prévaricateur*) public functionary, provided that at the same time the house granted him the justice he had a right to expect at their hands, nor was it enough simply to do justice, the forms and the rules of justice must also be observed. (Before sitting down Mr. Bedard excused himself for the warmth he had betrayed, but said his feelings had been severely hurt.)

Mr. Viger, the hon. member asking instructions from the chair, ought first to have established what is the parliamentary course and usage, and should have shown that in pursuing any other they should be going astray from such usage. This was essential. It is within the knowledge of every member that during the session, committees charged with enquiring into the conduct of public departments, the fees, &c., have implicated high functionaries without any specific charge having been made against them. Reports have been presented against two or three, upon which the house had not reported but they served to show that the committees were not restrained in their enquiries. The hon. member instanced the case of Mr. Felton against whom a committee had incidentally reported. In the present case an hon. Judge is accused of every act of which a Judge ought not to be guilty, the enquiry was proceeded in, in the same manner, and although no body had proved and he sincerely hoped never would be able to prove the complaints alleged in the petition, the evidence already given before the committee furnished sufficient matter for enquiry. A petition from the officer accused, though received and referred to the same committee, by no means bound them to grant all that is asked, and he saw no reason why Mr. Hart should particularise his accusations. He saw that, on the 7th January, when the petition of Mr. Hart was presented, an injunction was given to the committee to enquire into the general public conduct of Mr. Bowen. (Here a discussion arose between Messrs. Bedard and Gugy, in regard to the injunction to which Mr. Viger referred.) Mr. Viger resumed that he did not know what had been done in the committee, but he knew that an injunction or special order to that effect stood in the reference book. Presumption, he said, was against the Judge, and the enquiry must be proceeded with in order to further the ends of justice. Yet the motion now made goes into effect to ask that the ends of justice may be stopped. He begged of those hon. members who were professional men, to lay aside in the house the rules of ordinary courts, and to follow the parliamentary course which should always be their rule.

Mr. Berthelot said that it was insulting the house to call upon it to undertake the defence of accusation which were not yet made; if, therefore, the motion was withdrawn he should vote against it.

#### APPENDIX.

Extract from a Despatch to the Commissioners for Lower Canada dated,

DOWNING STREET, 17th July, 1835.

Amonst the most pressing of these, is the financial question which has given rise to so protracted a controversy.

After the several gradations through which this question has passed, it has at length assumed the following shape; as representatives of the people of Lower Canada, the House of Assembly claim the right of appropriating to the public service, according to their own discretion the whole of the revenues of the crown accruing within this Province. The claim extends to the proceeds of all parliamentary and provincial statutes whatever may have been the original conditions of these grants;—to the funds drawn from the sale of timber and of the waste lands of the Crown;—to all fines and forfeitures;—and to the income derived from the seigniorial rights inherited by the King from his royal predecessors. In fine, the authority of the local Legislature over the expenditure of the Province is declared to be so extensive, as to embrace every part of that receipt and outlay: and so inalienable as to supersede even the concessions deliberately made in preceding times by the former representatives of the Canadian people.

Without pausing to discuss the great constitutional questions which these claims involve I content myself with referring to the undoubted fact, that the Kings of England have at all times been in right of their crown in possession of certain sources of revenue peculiarly their own and of which they could not be divested, except by their own consent. In modern times, as is well known, the control of parliament over this revenue in these kingdoms, has been established on the accession of each sovereign to the throne, by a solemn compact made

between the crown & the houses of lords and commons. If therefore the King were disposed to insist upon positive law, ancient practice, or constitutional analogy, his Majesty might readily vindicate his right to dispose of the territorial hereditary, and casual revenue of the crown, arising in Lower Canada, towards the maintenance of the civil government in that part of his dominions. But anxious to render his reign a blessing to his Canadian subjects, his Majesty is prepared to decline taking this ground, and to refer the decision of the question to the single test of the advantage to the province, with which the proposed cession would be attended. It would be difficult to imagine any pecuniary sacrifice which would not be wisely incurred in purchasing a peaceful settlement of the dissensions of the last fifteen years.

If pecuniary interests alone were at stake, the King would not hesitate to make this cession permanently and without condition. They must ill indeed have understood the character and policy of the British who may have supposed, that the peace and well being of this great Empire has been put to hazard in a prolonged contest with the most valuable of its foreign dependencies, for the sake of a sum of money so insignificant, as to be scarcely perceptible in the financial operations of Great Britain, and of no considerable amount even in those of Lower Canada.

During the progress of this controversy, there have been expended by parliament, for objects altogether Canadian sums, compared with which, the utmost demand that has been made on the liberality of the house of assembly, for the support of the Executive Government of the province, is altogether trivial. The real importance of connecting the surrender of the hereditary and territorial revenue with some reservation or condition for the support of the civil government and for the administration of justice, rests upon grounds far higher than any which could be brought to a pecuniary measurement. There are objects, essential as it would seem, to the welfare of his Majesty's Canadian subjects, which could not probably be secured if that surrender were made unconditionally. In this view of the question, his Majesty is bound not to relinquish the appropriation of funds which the law and the constitution has placed at his disposal without making a stipulation suggested exclusively by his care for the common benefit of his people.

Amongst the foremost of the objects which his Majesty is thus bound to reserve from a precarious support, are, the independence of the Judges, and the pure administration of the law. From the commencement of his reign, it has been the constant and persevering effort of his Majesty to render the Judges of the Superior Courts in Lower Canada, independent alike of the Crown, for the tenure of their offices, and of the Representatives of the people for their annual emoluments. In the various documents already noticed, you will find the history of those attempts, and a full explanation of the causes to which their failure is to be ascribed; yet review of the Journals of the assembly will, I think, convince you, that between that house and his Majesty's Government, no real, or at least, no irreconcileable difference of opinion exists on the subjects; on the contrary, you will find, that respecting the general principles on which we must proceed, a perfect unanimity has prevailed. It is fully admitted that the Judges ought to hold their offices, not at the pleasure of the King, but during good behaviour, and that the official incomes should be paid, not at the pleasure of the popular branch of the Legislature, but from adequate funds, to be irrevocably pledged for that purpose. With respect to the erection of a tribunal for the trial of impeachments preferred against Judges no plan has been suggested, nor, consistently with the principles of the constitution of the province, could any scheme be devised, excepting that of bringing such Judges to trial before the Legislative council, or before his Majesty, acting by the advice of the Judicial Committee of the Privy council in this Kingdom. Impartiality, with a perfect exemption from all local influences, is the first and essential attribute of any court, which may be invested with such powers, and as the King cannot indulge any reasonable hope of finding those qualities combined in any tribunal within the province itself, (unless perhaps in the Legislative council,) his Majesty is not prepared to assent to any scheme divesting himself, acting upon the constitutional advice of his Privy council, of the authority which has ever been exercised by the Kings of this realm, on occasions of the same nature, and since the earliest settlement of the colonial portion of the dominions.

This, then, will be one of the subjects of your earnest enquiry; and you will endeavour to suggest the plan of a law, in which there may be good ground to anticipate the concurrence of the house of assembly, for the security of judicial independence. If this can be effected one of the chief difficulties which might otherwise obstruct the cession of the revenues will be overcome.

The regard which it is his Majesty's duty to maintain for the welfare of the people of Lower Canada appears to forbid a surrender of the revenues of the Crown in that province to the appropriation of the Legislature, unless some provision be further made for the support of the Executive Government, by an adequate civil list.

It must be recollected that the form of provincial constitution in question is no modern experiment nor plan of government in favor of which nothing better than doubtful theory can be urged. A Council,

nominated by the King, and possessing a coordinate right of Legislation with the representatives of the people, is an inevitable part of the British Colonial Constitution in all the transalantic possessions of the Crown, with the exception of those which are completely liable to the legislative authority of the King in Council. In some of the Colonies it has existed for nearly two centuries. Before the recognition of the United States as an Independent nation, it prevailed over every part of the British possessions in the North American continent, not comprised within the limits of Colonies founded by charters of incorporation. The consideration ought indeed to be weighty which should induce a departure from a system recommended by so long and successful a course of historical precedent. To the proposal made by that body to refer the consideration of this question to public conventions, or as they are termed, primary meetings, to be held by the people at large, in every part of the Province, his Majesty commands me to oppose his direct negative. Such appeals are utterly foreign to the principles and habits of the British Constitution, as existing either in this Kingdom or in any of the foreign dependencies of the Crown.

You will therefore apply yourselves to the investigation of this part of the general subject, and endeavoring to ascertain how far the Legislative Council has really answered the original objects of its institution, and considering of what amendments it may be susceptible. It is his Majesty's most earnest hope and trust, that in the practical working of the constitution of the Province, there will be found to exist no defects which may not be removed by a judicious exercise of those powers which belong to the crown or which parliament has committed to the Provincial Legislature.

When your report shall have been received his Majesty will take into his most serious consideration, the question whether there are any amendments in the law on this subject, which it would be fit to propose for the consideration of the Imperial Legislature; and which being founded on the principles and conceived in the spirit of the act of 1791, it may be calculated to render the practical operation of the statute more conformable to the wishes and intentions of its framers."

(A true copy) J. JOSEPH.

Extract of Despatch to the Canada Commissioners, dated,

17th July 1835.

In the ninety-two resolutions of the Session of 1834, in the address to his Majesty of that year, and in the address adopted in the Session which closed abruptly in the commencement of the present year, the constitution of the Legislative council was insisted upon as the chief and prominent grievance in the whole system of Provincial Government. To the discussion of this subject, nearly half of those resolutions and of those addresses are devoted; and the assembly in the most decided language, have declared that all remedial measures will be futile and unsatisfactory which would stop short of rendering the seats in the Legislative council dependent on a popular election.

The petitioners of Quebec and Montreal on the other hand, deprecate with equal earnestness any departure from the principle on which the appointment of the Legislative council is regulated by the act of 1791, and denounce any such change as pregnant with the most formidable evils.

The King is most unwilling to admit, as open to debate, the question whether one of the vital principles of the provincial Government shall undergo alteration. The solemn pledges so repeatedly given for maintenance of that system, and every just prepossession derived from constitutional usage and analogy, are alike opposed to such innovations, and might almost seem to preclude the discussion of them.

But his Majesty cannot forget that it is the admitted right of all his subjects to prefer to him, as the King of these realms, their petitions for the redress of any real or supposed grievances. His Majesty especially recognises this right, in those who are themselves called to the high office of representing a large and most important class of his people.

The acknowledgement of this right appears to the King, to imply on his own part the corresponding duty of investigating the foundations of every such complaint. His Majesty therefore will not absolutely close the avenue to inquiry, even on a question respecting which, he is bound to declare, that he can for the present perceive no reasonable ground of doubt. His Majesty will not refuse to those who advocate such extensive alterations, an opportunity of proving the existence of the grievances to which so much prominence has been given.

The King is the rather induced to adopt this course, because his Majesty is not prepared to deny that a statute which has been in effective operation for something less than forty three years may be capable of improvement, or that the plan upon which the Legislative Council is constituted may, possibly in some particulars, be usefully modified, or that in the course of those years practical errors may have been committed by the council, against repetition of which adequate security ought to be taken.... Yet if these suppositions should be completely verified, it would yet remain to be shewn, by the most conclusive and circumstantial proof, that it is necessary to advance to a change so vital as that which is demanded by the House of Assembly.

I pass over without any direct notice the grounds on which the contending parties in the province have, on the one hand, urged the necessity of such a stipulation, and on the other hand denied that it could be safely or Constitutionally admitted. You will still remain liable to the legislative authority of the King in Council. In some of the Colonies it has existed for nearly two centuries.

Before the recognition of the United States as an Independent nation,

ous to the agricultural and financial interests of Lower Canada.

Were the right of appropriating the revenue arising from the crown lands and the charges of their management indissolubly connected, I should admit this reasoning to be correct. The objections to the combination in the same hands of a large share of the Legislative power with so important a branch of the Executive authority, are too obvious to escape your notice; and I therefore may, without inconvenience, abstain from a particular explanation of them. It may be sufficient to say, that his Majesty's confidential advisers regard as conclusive and unanswerable, the objections which are made to confining the management of the uncleared territory of Lower Canada, to either or both of the Houses of General Assembly, or to persons appointed by them and subject to their control. In the distribution of the different powers of the state the office of settling & alienating the uncleared territory properly belongs to the Executive Government.

It is competent to the Legislature upon this, as upon other subjects, to lay down general rules for the guidance of the Executive authorities, or either branch of the Legislature may separately offer its advice to the Crown as to the policy and system of management, which it thinks should be pursued; but the practical application of such general rules and the charge of carrying into effect the system of management which may be approved are functions so strictly of an Executive and Administrative character, that they can only be properly discharged by those, in whose hands all similar powers are lodged by the constitution. Nor am I aware of any ground on which a surrender of that trust could be properly required from his Majesty, or which would justify the resignation of it by the King.

From the Montreal Herald.

#### ANTI-GALLIC LETTERS.

[SECOND SERIES.]

No. X.

To the English Inhabitants of British America.

Montreal, 16th February, 1836.

FELLOW-COUNTRYMEN,

Having already proved, that the French demagogues of this province are actuated by the petty ambition of French nationality in regard to the political standing of individuals, agriculture and commerce, I now proceed to prove, that they are actuated by the same petty ambition in regard to literature and religion.

The literary contrast between Lower Canada on the one hand and the neighboring colonies and states on the other justifies the general inference that the ruling powers of the former have been less zealous in the cause of learning than those of the latter. So general an inference, however, does not impute blame to the popular leaders any more than to the executive government; and a minute investigation would pretty equally divide the guilt, by shewing that the government had pusillanimously pandered to the illiberal prejudices of the demagogues.

It must, also, be confessed, that the English inhabitants of the province, and more especially those of the cities of Montreal and Quebec, must bear a share of the blame, for they might easily have established permanent seminaries of education without the aid either of the legislature or of the executive. Lie the fault where it may, the humiliating fact is undeniable, that the oldest European settlement to the north of the gulf of Mexico is inferior to every other as well in general education as in literary institutions. While Upper Canada has her district schools and her college, while the youngest state of the American republic has her university, while every English section of the continent is illumined by an educated population, Lower Canada is borne down by an incubus of illiterate paupers and boasts only the half-dead Royal Institution and the half-born McGill college.

It reflects but little credit on the government, that, while it had the disposal of funds, to which the local legislature had not the shadow of a right, it failed liberally to endow those establishments; and that, through a palpable fear of offending French prejudices, it hesitates to confer on them any portion of the waste lands of the crown.

Such pusillanimity is positively unjust, inasmuch as the government has, in defiance of law, permitted the French religious communities to retain estates, which are, in a great measure, applied to the purposes of French education, and has annually sanctioned large grants of a revenue chiefly paid by Englishmen for the maintenance of self-styled colleges exclusively French.

So much has the Royal Institution been crippled by this conciliatory system, that the principal schools, which it superintends, virtually exist at the mercy of the French Assembly and have, for the last three years, received not one farthing from that professedly liberal and impartial body.

Through the same conciliatory spirit, has the British government been afraid to fulfil its positive agreement with the Rev. Mr. Burrage, Master of the Grammar School of Quebec.

Though in all this the government has been as culpable as the Assembly, yet it has been so in avowed subserviency to the French prejudices of that body; and its truckling abandonment of the interests of English literature is not less conclusive in favour of my argument than the direct action of the Assembly itself. To McGill college the

French faction has been bitterly and consistently opposed. The opposition of the late Mr. McGill's heirs to the payment of that enlightened man's munificent legacy of £10,000 has been throughout considered as a political question. Mr. Louis Joseph Papineau, Speaker of the French Assembly, condescended in a private letter to ascribe the decision of the provincial judge in favour of McGill college to bribery and corruption; and the French board for examining candidates for medical licenses frivolously and vexatiously, in defiance of law and justice, refused to license the first medical graduate of McGill college. McGill college, with the exception of its medical department, is still in the clouds; and, when it shall have been established, it will most probably be abandoned by a conciliatory government to its own resources. When a sturdy Irishman, to whom George the Third had promised an appointment on account of a personal service, was asked by Mr. Dundas, what could be done for him, he replied, with more wit than prudence, 'Make a Scotchman of me, Sir, and you will have made my fortune.' One would, also imagine, that to be English would be a recommendation in an English colony; but on the contrary, my countrymen, the Assembly will not, and the Government dares not, do any thing for McGill college, because it is ENGLISH. Had the witty Irishman been interrogated not in London but in Quebec, he would have implored his patron to transform him into a Frenchman.

But, my countrymen, it is a proud thing to reflect, that, notwithstanding all the partiality of the Assembly and all the fears of the government, the neglected English are far better educated than the petted French; and I ought to apologise to my countrymen for presuming to give utterance to so odious a comparison. While every Englishman or almost every Englishman in the province can read and write, few of the French-Canadian habitants, even of those who are qualified to act as grand jurors, can sign their own names, and those among them, who have acquired a little education, will not gratify their thirst for knowledge at their own expense. The self-constituted Assembly, as I have already mentioned, has generously proposed to present them with a thousand copies of a French translation of Mr. Evans's treatise on agriculture at the expense of the English tax-payers. I tell you, men of English blood, whether whigs or tories, whether destructives or conservatives, whether republicans or royalists, that you would justly deride and spurn your fellow-countrymen of this province if they should tamely submit to be governed by so ignorant a people as the French Canadians merely on account of their superior numbers. Good heavens, my countrymen, will even the most unqualified democrat tell me, that, in the peculiarly difficult task of civil government, a thousand illiterate dunces are wiser than nine hundred and ninety-nine men of knowledge and ability? The doctrine is absurd, untenable and fatal.

Even among the nominally educated class of French-Canadians, men of real knowledge are, like angels' visits, few and far between; and, in support of my assertion, I need hardly do more than state the fact, that, a few months ago, both the French papers of Montreal were conducted, and ably conducted too, by native Frenchmen, whose literary superiority far more than atoned for their inevitable want of intimacy with local politics,

On the subject of religion, I need not say much. The French demagogues have assiduously endeavored to excite religious dissensions, not because they love Catholics and hate Protestants but because they love Frenchmen and hate Englishmen. Their indifference on the subject of religion is proved by their attacks on the French Catholic clergy and by their unequivocal hostility to the erection of Irish Catholic Chapels.

I have the honor to be,  
Friends and Countrymen,  
Your most faithful and devoted servt  
CAMILUS.

#### EXTRACTS.

Mobile, Jan. 12, 1836.

HORRID MASSACRE.—By the mail boat Mazepa, Captain Corson, arrived yesterday afternoon, from New Orleans, we have received the painful and distressing intelligence of the surprise and massacre of two companies of United States troops under the command of Major Dade, consisting of one hundred and twelve men, by the Seminole Indians.

Major Dade had started with his troops from Tampa Bay to Camp King to join Gen. Clinch, when on the morning of the 23d of Dec., at 8 o'clock, they were surrounded by a large body of Indians, supposed to number 800 or 1,000, and were cut to pieces. Only three men of the one hundred and twelve escaped, badly wounded, to recount the lamentable history of the butchery of their fellow soldiers.

Major Dade was shot off his horse on the commencement of the attack. Captains Gardner and Fraser soon after fell mortally wounded, and their scalps were taken by the savages. Lieutenants Bassinger, Henderson, Mudge and Kean and Doctor Gatlin, surgeon to the detachment, were all slain. Lieut Bassinger was wounded at the onset, and was discovered by a negro in the party of the savages, crawling off to a place of concealment, and tomahawked.

We do not remember the history of a butchery more horrid, and it stands without an example in the annals of Indian warfare. Our citizens, we are sure, will meet together and send some relief to the suffering and defenceless inhabitants of Florida.

Col. Twiggs of the United States Army, chartered the steamboat Merchant, and started with four companies from New Orleans to Tampa Bay. Major Belton is now there with the force under his command.

By the Brig Wave, at Charleston, (S. C.) Jan. 21st, from Key West, intelligence is received from the latter place to Jan. 14th.

The Indians were in a considerable body north of Cape Florida. The inhabitants of all the settlements between New River and Cape Florida had, in consequence of the alarm, assembled at the Light House to the number of about 60, but soon abandoned the position, being without ammunition or provisions. The Indians soon after took possession and massacred the family of Mr. Cooley, near the light house. Mr. Cooley was absent, and on his return found the bodies of his mother, wife and three children, and a hired man.

Three families had been murdered between St. Marks and Tallahassee, together with an overseer. Nearest to the Indians is the Light Ship... the next port is the Indian Key, where there are defenses and Cannon. Key West is thoughtsafe, being so remote from the coast, and also an island. There are two hundred fugitives there.

An arrival at Charleston, (S. C.) brings advices from St. Augustine to the 14th Jan.

The Indians were within 15 miles of the town, which was guarded by only 70 men capable of bearing arms. Had the Indians made a descent, it is thought they would have taken the place without resistance, a deplorable result which was hoped would be prevented by the expected succor of the United States troops, sent out by the steamboat John Stoney from Charleston. Capt. Wiley, of the schr. George and Mary, which had arrived at Charleston from St. Johns, reports that while at Jacksonville (about Jan. 14,) he proceeded up the St. Johns to Mandarin, to effect the removal of the schooner Motion, which he found there dismasted. On his arrival he found the vessel filled with men, women, and children, to the number of 130, with the intention to defend themselves against the Indians until the vessel could be brought down the river. The vessel was therefore allowed to remain until the persons in her could build a fort to protect themselves. A company (56 in number) of raw recruits arrived at Jacksonville on the 8th ult., unprovided with arms, ammunition and provisions. They were supplied with arms from the stores sent on from Charleston, and obtained provisions from Picos.

To the Editor of the Mississoula Standard.

Mr. Editor, Sir:—

The 1st Resolution, passed at the Constitutional Meeting is, as it should be, an effectual blow to the petition of a few inhabitants of Stanstead, which was presented to the House of Assembly, in December last by Mr. Marcus Child, one of the members of that county. The following is a correct copy of that precious document, as printed by order of the House, which I beg you will have the goodness to insert.

To the Honorable House of Assembly of Lower Canada, in Provincial Parliament assembled.

The Petition of divers inhabitants of the County of Stanstead.

Most respectfully sheweth;

That it is with apprehension and alarm they regard the establishment of the British American Land Company, and the consequences which must unavoidably result from it. Your Petitioners do not hesitate to say, that they regard the granting of a Charter to the British American Land Company as an infringement of their rights and privileges as British subjects, guaranteed to them by an act of the Imperial Parliament. Your Petitioners moreover regard the selling of so large a portion of the public land, as a measure fraught with consequences highly detrimental to the welfare and prosperity of the inhabitants of this province. Good heavens, my countrymen, will even the most unqualified democrat tell me, that, in the peculiarly difficult task of civil government, a thousand illiterate dunces are wiser than nine hundred and ninety-nine men of knowledge and ability? The doctrine is absurd, untenable and fatal.

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Townships is undoubtedly a rotten member of society and an enemy to the country. They "do not hesitate to say that they regard" the "Charter" of the "Company as an infringement of their rights and privileges as British subjects, guaranteed to them by an act of the Imperial Parliament." Yes, truly, they "hesitate" at nothing but the truth. Where were "the rights and privileges," of which they speak, ever "guaranteed to them by an act of the Imperial Parliament?" Never in the world. All countries in possession of colonies have settled, and do settle, them by chartered companies. France commenced and carried on the settlement of Canada by chartered companies. Did Great Britain conquer this country from the arms of His Christian Majesty, and then pass an "Imperial act of Parliament" to bind herself that she should not at any time, charter a company for the purpose of extending her settlements therein? If she had, would it not be the same thing as binding herself to forego the advantages of her conquest in favour of the conquered. Did she ever pass an act to divest herself of the Sovereignty of the country, and thereby transfer it to the "Representatives of the people?" The supposition that she had, in any of these cases, been guilty of such weakness is most absurd, and never could have been entertained, but by sheer ignorance, folly or knavery.

"Your Petitioners moreover regard," &c. the settlement of the country by our fellow subjects from Great Britain and Ireland, "as highly detrimental to the welfare and prosperity of the inhabitants of this province." In the famous Pamphlet published in England, this measure is better characterised, as being "repugnant to the institutions of the country, and odious to the people thereof." The good people of Stanstead could never have written or signed a petition so unnatural and suicidal as this if they had not been the servile followers of the authors of that Pamphlet, and of the doctrines which it contains, purely and exclusively of French origin, and for the purpose of building up, and fencing in, the nation Canadienne. The petitioners should, in order to be consistent, have included the sale of land to emigrants from the United States, as "highly detrimental to the inhabitants of this province," which if they had done, would have had a tendency of opening their eyes as to see the snare in which they allowed themselves to be caught. Recollect that Mr. Marcus Child and many of the petitioners are from the United States; and yet they petition against the King's subjects from the Home dominions as Foreigners!!

S. D.

will be visible but the—smoke. We hope that no civil list will be granted,—the fellows must really get rope enough—that they will continue to harass the government, until the eyes of all men at home, as well as here, may perfectly see into their schemes.

We think that it is incumbent on Lord Glenelg, out of respect to his own opinions, to recall Lord Gosford, and demand of him, before a competent tribunal, an explanation of that long absurd speech of his, at the commencement of the session. This would save the Constitutional Associations' some trouble, and would enable them to proceed, against the worthy pair, with more vigor, for having robbed the province of a large portion of its revenue.

Upon the whole, we congratulate the people on the increasing strength and brightening prospects of the constitutional cause.

The weather, this winter, has been rather variable,—changing from cold to colder. On Thursday last the mercury fell to 35 below zero, and next day a gentle thaw commenced, which still continues.

Next week we shall give our readers the pleasure of perusing a speech, in the hand writing of one of the members of the Assembly, which would have been delivered no doubt had it not been lost,—and found again.

The Montreal Herald of 15th Feb., has not been received at the Post Office here.

Married,

In the Western Parish of St. Armand, on the 18th ultimo, by the Rev. Mr. Thompsons, Mr. Weightman Reynolds to Miss Mary Ann Jenkins.

Also, by the same, Mr. Stephen Vincent to Miss A. True.

At Richmond, Vt., on the 10th instant, by the Rev. J. Powell, Mr. Russell Smith to Miss Gerusha Elmore.

Also at the same place, on the 21st ultimo, by John Huse, Esquire, Mr. James Grimes to Miss Hester Allen, of Sutton, Lower Canada.

At Champlain, on the 19th inst., by the Rev. Mr. Morris, Mr. Sidney Hamilton to Miss Hannah Odell, of Odetown.

We acknowledge the receipt of a portion of the Wedding Loaf, and in return tender them our best wishes for their prosperity through life.

Died,

At Dunham, on the 9th instant, Lany Freleigh wife of Boston Traver, in the 77th year of her age.

At Enslough on Monday the 20th of Jan. last, Louisa Craigie, daughter of Mr. Thomas Craigie, aged 21 years and 5 months. Seldom does it become the duty of public journals to record the death of one more regretted by a numerous circle of friends than the subject of this notice. She possessed those qualities which secured the love and respect of all who knew her, and gave promise of much future satisfaction to her friends. But also, how vain are all human calculations, at one of the most interesting periods of life, sickness, which was born with christian resignation, has prostrated her in death. What shadows we are, and what shadows we pursue. Much loved youth farewell! though art absent but not forgotten—many friends embalm thy memory in their bosoms, and shedding tears of affection upon the sods which cover thee, sadly feel thine absence, and mourn thy untimely loss.—Cos.

Enslough, 20th Feb., 1836.

LUCY MATTOCKS, Tutrix.

W. W. SMITH, Subtutor.

Philipburg, Feb. 15th, 1836. 46-3w.

50,000 CEDAR RAILS wanted in exchange for cash.

W. W. SMITH, Mississoula Bay, 15th Feb. 1836. 46-1w.

Star Tavern,

New Market, Montreal.

William Brown,

THANKFUL for past favors, would re-

spectfully inform his former customers, friends, and the public in general, that he has leased and will occupy, on the 1st of May next, the house at present occupied by Mr. John Murphy, one door below his present Stand, having more extensive and better accommodations than heretofore, together with an addition of yard and stabling.

The Stand being very near the Courts of Justice, and proximate to the market offers great inducement to the man of business or pleasure, & he hopes by unrewarded attention to his customers to merit a continuance of their favors.

January 27, 1836. 46-12w.

Taken Up

ON Friday last the 12th instant, a middling sized BAY HORSE, the owner is requested to pay charges and take him away.

B. WHITNEY

St. Armand Feb. 12, 1836. 45 3w.

THE subscriber will pay seven pence half

a penny, in money, for good house ashes.

J. J. J. HAWK.

St. Armand, Dec. 22, 1835. 37-3w.

Cuts

on hand and for sale at the F. S. F.

BLANKS of all kinds Stereotyped at short no-

tice. Old Type taken in pay for work, at 2

cents per pound.

College Street, Burlington Vt.

January 12 1836.

## Lost,

Between Josiah Allen's and Lagrange's mill

a new

Horse Blanket.

Checkered yellow and black; part of one breadth is a little white instead of yellow.—Whoever will leave said blanket at J. Allen's, or at his office will much oblige the owner.

THOMAS ALLEN.

Farnham, Feb. 20th, 1836.

NOTICE.

CAME into the enclosure

of the Subscriber, on the

morning of the 21st instant, a dark Grey Horse, four or five

years old. The owner is requested to prove his property pay charges and take him away.

DAVID PATCH.

St. Armand, 22d Feb., 1836. 46-1f

## Lost,

ON the 26th January last, near my residence

in Farnham, a

Pocket Book,

containing Notes, Receipts and other papers. I therefore, forbid all persons, against whom I hold Notes, paying the same, except myself

## POETRY.

### A Lay of Olden Time.

The warrior came from the tented field  
In the pride of his young renown,  
He hung on the bough his tattered shield,  
And flung his helmet down;  
His dinted sword was cast aside,  
And he loosed his steel-linked vest,  
And gazed awhile with a warrior's pride,  
On the scars that marked his breast!

\*Farewell, my sword,' said the warrior then,  
'Thou hast served me well and long,  
In the strife of iron-hearted men;  
In the fierce and mingled throng;  
And where thy blade has flashed on high,  
Red blood hath flowed like wine,  
On the sunny fields of Italy,  
And the plains of Palestine!'

Bright summer came, and the sun-god's eye  
Looked down on a quiet spot,  
And silvered the streams that murmured by  
A sweet vine-covered cot.  
That cot was the home of love and joy—  
There the warrior clasped his bride,  
And the father gazed on his fair-haired boy  
With all a father's pride.

Still hangs his shield on the golden bough,  
And his casque is flung beneath,  
And he takes a purer pleasure now  
Than he found on the field of death;  
A prattling child and happy wife  
Beside the soldier's cot;  
No more he pants for the bloody strife,  
His love, his heart is theirs.

### THE SMUGGLER.

(Continued.)

'Out o', my ship ye thieves!' cried he,  
while with his long arm he brandished the  
deadly weapon, and for a moment forgot  
his habitual discretion. Others of the crew  
instantly sprang to the assistance of Harry,  
and after a short but desperate encounter  
the invaders were driven from the deck,  
leaving their chief mate insensible from  
wounds behind them.

The rudder being repaired so as to render  
her manageable, the lugger kept up a  
sort of retreating fight until night set in,  
when, as Harry said, 'she gave the cutter  
the slip like a knotless thread.'

But now a disagreeable question arose  
amongst them, and that was what they  
should do with the wounded officer, who  
had been left as a prize in their hands—  
though prize that they would much rather  
have been without. Some wished that he  
might die of his wounds, and so they would  
get rid of him, for they were puzzled how  
to dispose of him in such a way as not to  
lead to their detection, and place their  
lives in jeopardy. Harry was on his knees  
by the side of the officer, washing his wounds  
with Riga balsam, of which they had a store  
on board, and binding them up—when one  
desperate fellow cut short the perplexity and  
discussion of the crew, by proposing to fling  
their prize overboard.

On hearing the brutal proposal Harry,  
sprang to his feet, and hurling out his  
long bony arm, he exclaimed—'ye savage'  
and dashing his fist in the face of the ruffian,  
felled him to the deck.

The man—(if we may call one who  
could entertain so inhuman an idea by the  
name of man)—rose bleeding, growling and  
uttering threats of revenge.

'Ye'll blab, will ye?' said Harry, eyeing  
him fiercely—'threaten to dow it again,  
and there's the portin that's waiting for  
yur neck!...and as he spoke he pointed  
with his finger to the cross-tree of the lugger,  
and added, 'and ye know that the same  
reward awaits ye if ye set yur weel-faur'd  
face ashore!...Out o' my sight ye scape  
the gallows.'

For three days and nights after her en-  
counter with the brig the lugger kept out  
to sea, and on the fourth night, which was  
thick, dark, and starless, Harry resolved to  
risk all, and desiring the skipper to stand  
for the shore, all but run her aground on  
Embleton beach. No light was hoisted, no  
signal given. Harry held up his fingers  
and every soul in the lugger was mute as  
death. A boat was lowered in silence, and  
four of the crew being placed under the  
command of Ned Thomson, pulled ashore.  
The boat flew quickly, but the oars seemed  
only to kiss the water, and no sound audible  
at the distance of five yards proceeded  
from their stroke.

'Now, pull back quietly mates,' said Ned,  
'and I'll be aboard wi' some o' wur awn  
folks in a twinklin.'

It was between one and two in the  
morning, and there was no outward sign  
amongst the fishermen of Embleton that  
they were on the alert for the arrival of a  
smuggler. The party who gave information  
to the cutter having missed Harry for a  
few days, justly imagined that he had  
obtained notice of what they had done, and  
also believed that he had ordered the car-  
go to be delivered on some other part of  
the coast, and they therefore were off their  
guard. Ned therefore proceeded to the  
village, and at the houses of certain friends,  
merely gave three distinct and peculiar taps  
with his finger upon their shutterless windows,  
from none of which, if I may use  
the expression, proceeded even the shadow  
of light; but no sooner was the last tap  
given upon each, than it was responded to  
by a low cough from within. No words  
passed, and at one window only was Ned  
detained for a space exceeding ten seconds,  
and that was at the house of his master  
Harry Teasdale. Fanny had slept but  
little since her father left; when she sought  
rest for an hour it was during the day,  
and she now sat anxiously watching every  
sound. On hearing the understood signal  
she sprang to the door. 'Edward! she  
whispered eagerly, 'is it you?...where  
is my father?...what has detained him?'

'Dont be asking questions now. Miss  
Fanny—sure it is very foolish,' replied  
Ned in the same tone; 'Master will be  
here by and by—but ye know we have bon-

ny wark to dow afore daylight yet. Gud  
night binny.'

So saying, Ned stole softly along the  
village; and within half an hour half a  
dozen boats were along-side the lugger; and  
an hour before day break, every tub and  
every bale on board was safely landed and  
stowed away.

Yet, after she was a clear ship, there  
was one awkward business that still remained  
to be settled, and that was how they  
were to dispose of the wounded officer of  
the cutter-brig. A consultation was held—  
many opinions were given.

'At any rate we must act like christians,'  
said Harry.

Some proposed that he should be taken  
over to Holland and landed there, but this  
the skipper positively refused to do, swearing  
that the sooner he could get rid of such a  
customer the better.

'Why, I canna tell, said Ned Thomson,  
but what do ye say, if we just take  
him ashore and lay him at the door o'  
the awd rascal that gied information on  
us.'

'Capital!' cried two or three of the  
conclave; 'that's just the ticket, Ned!'

'Nonsense!' interrupted Harry, 'it's  
nae such thing. Man Ned, I wonder that  
sic a clever chap as ye say talks like a fool.

Why ye might as weel go and ask them  
to take you and me off to Morpeth before  
dinner-time, as to lay him at their door this  
morning.'

'Well Master Teasdale,' said the  
skipper, who was becoming impatient,  
'what would you have us to do with  
him?'

'Why I see there's naething for it,' an-  
swered Harry, 'but I maun take the bur-  
den o' him upon my awn shouthers—get  
the boat ready.' So saying, and while it  
was yet dark, he entered the cabin where  
the wounded officer lay, but who was now  
conscious of his situation.

'I say my canny lad,' said Harry, ap-  
proaching his bed-side, and addressing him,  
'ye maun allow me to tie a bit handkercher  
owre yur een for a quarter of an hour or  
sae—ye needna be feared, for there's nae-  
thing shall happen ye,—but only in looking  
after yur gud, I maunna lose sight o' my  
awn. You shall be ta'en ashore as gently  
as we can.'

The wounded man was too feeble to offer  
any resistance, and Harry binding up his  
eyes, wrapt the clothes on the bed around  
him, and carried him in his arms upon deck.  
In the same manner he placed him in the  
boat, supporting him with his arm, and  
on reaching the shore he bore him on his  
shoulders to his house.

'Now Sir,' said he, as he set him down  
from his shoulders on an arm-chair, 'ye  
needna be under the smallest apprehension,  
for every attention shall be paid ye here, and  
as soon as ye are better, ye shall be at liberty  
to return safe and sound to your friends  
your ship, or wherever you like.' Harry  
then turned to his daughter and continued  
—'now my bird come away in bye wi'  
me, and I will let ye know what ye have to  
dow.'

Fanny wondered at the unusual burden  
which her father had brought upon his  
shoulders into the house, and at his request  
she anxiously accompanied him into her  
own apartment. When they had entered,  
and he had shut the door behind them, he  
took her hand affectionately, and addressing  
her in a sort of whisper, said—

'Now Fanny love, you maun be very  
cautious,...as I know ye will be,—and mind  
what I am telling ye to dow.' He then  
made her acquainted with the rank of their  
inmate, and the manner in which he had  
fallen into their hands, and added—'now  
darling, ye see we maun be very circum-  
spect, and keep his being here a secret frae  
every body; he maun remain ignorant o'  
his own situation, nowther knowing where  
he is nor in whose hands he is, for if it  
were found out, it wad be as much as  
your father's life is worth. Now he maun  
stop in this room as it looks into the garden,  
and he can see naething frae it, nor will  
ony body be able to see him. Ye maun  
sleep wi' the lass in the kitchen, and yur  
'sampler,' and every book or ony thing  
that has a name on't maun be taken out o'  
the room. It wimma dow for ony body  
but you and me ever to see him, or to wait  
on him, and when we dow, he maunna be  
allowed to see either yur face or mine; but  
I will put my awd mask on, that I used  
to wear at night sometimes when there  
was ony thing particular to dow, and I  
thought there wad be danger in the way;  
and, continued he, as the doting parent  
rose in his bosom, 'it wadna be chaney  
for him to see my Fanny's face at ony  
rate; and when ye dow see him, ye maun  
have your features so concealed that if he  
met you again he wadna know ye. Now,  
hunny, ye'll attend to a' that I've said,—for  
ye remember your father's life depends  
not,—and we maun be as kind to the  
lad as we can, and try to bring him  
about as soon as possible, to get clear on  
him none. But I can trust to thee.'

From that moment Augustus no longer  
wearied for the days of his captivity to  
pass away, and he retired to rest, or rather  
to dream of the veiled songstress, and to  
conjure up a thousand faces of youth and  
beauty which might be like her face—for  
he doubted not but her countenance was  
lovely as her form was handsome; and he  
pictured dark eyes where the soul beamed,  
and the raven hair waved on the snowy  
temples; with the soft blue eyes where  
affection smiled, and the flaxen tresses were  
parted on the brow—but he knew not which  
might be like hers on whom his imagination  
dwelt.

Harry, muffing up his face, returned to  
the apartment where the wounded man  
was, and supporting him on his arm he led  
him to that which he was to occupy. He  
then took the bandage from his eyes, and  
placing him on the bed, again desired  
him to keep himself easy, and wished him  
good night.

Many days passed, and during a part of  
each Fanny sat beside him to beguile his

good morning, for day was now beginning to dawn.

The name of our smuggler's wounded  
prisoner was Augustus Hartly; he was  
about twenty-four years of age, and the  
son of a gentleman of considerable property  
in Devonshire, and at the period we speak  
of, he was in expectation of being removed  
from his situation as second officer of the  
brig, and promoted to the command of a  
revenue cutter. The wounds which he  
had received on the deck of the lugger  
were severe, and had reduced him to a state  
of extreme feebleness, but they were not  
dangerous. He knew not where he was,  
and he marvelled at the treatment he  
experienced, for it was kind, yea, even  
roughly courteous, and unlike what he  
might have expected from the hands of  
such men as those into whose power he  
had fallen. Anxiety banished sleep, and  
when the risen sun lighted up the chamber  
where he lay, he stretched forth his hand  
and drew aside the curtains, to ascertain  
whether the appearance of the apartment  
would in any way reveal the mystery which  
surrounded his situation. But it rather  
increased it. In the window where the  
flowers, around the walls the curious needle-  
work, the furniture was neatly arranged,  
there was an elegance over all, and to increase  
his wonder, in a corner by the window  
was small harp, and a few pages of music  
lay upon a table near him.

'Surely,' thought Augustus, 'this cannot  
be the habitation of a half uncivilized smug-  
gler—and yet, the man who brought me  
here seemed such.'

He drew back his head upon his pillow,  
to seek the explanation in conjectures which  
he could not otherwise obtain; and while  
he lay conjuring up strange fancies, Harry  
with the mask upon his face, his hair tied  
up and concealed, and his body wrapt in a  
great coat, entered the room.

'Well, how art thou now lad?' said the  
smuggler, approaching the bed, 'dost think  
ye could take breakfast yet?'

Augustus thanked him, but the appear-  
ance of Harry in his strange disguise in-  
creased his curiosity and anxiety.

Harry withdrew, and again returned with  
the breakfast, and though an awkward  
waiter, he was an attentive one.—Few  
words passed between them, for the ques-  
tions which Augustus felt desirous to ask,  
were checked by the smuggler saying—

'Now, my canny lad, while ye are here I  
maun lay an embargo on your asking ony  
questions, either at me or ony body else.

Ye shall be taken gud care on—if ye want  
ony thing, just take that bit stick at your  
bed-side and gie a rap on the floor, and I  
ll come to ye. Ye shall want for naething,  
and as soon as ye are better, ye shall be at  
liberty to gaun where ye like. But I maun  
caution ye again that ye are to ask nae  
questions.'

Augustus again thanked him, and was  
silent.

At the end of eight days he was able to  
rise from his bed, and to sit up for a few  
hours. Harry now said to him—

'As thou wilt be dull, belike thou wilt  
have nae objections to a little music to cheer  
thee.'

Thus saying he left the room, and in a  
few minutes returned with Fanny. He  
was disguised as before, and her features  
were concealed by several folds of black  
crape which covered her head and face, after  
the fashion of a nun. She curtsied with a modest grace to the stranger as she  
entered.

'That cannot be the daughter of a rude  
and ignorant smuggler,' thought Augustus,  
'and how should such a creature be con-  
nected with them?' He noted the elegance  
of her form, and his imagination again began  
to dream. The mystery of his situa-  
tion deepened around him, and he gazed  
anxiously on the thick and folded veil that  
concealed her features.

'Wilt thou amuse the poor gentleman  
with a song love,' said Harry, 'for I fear  
he has but a dull time on't.'

Fanny took the harp which stood in the  
corner, she touched the trembling chords,  
she commenced a Scottish melody, and as  
Augustus listened to the music of her  
clear and silvery voice blending with the  
tones of the instrument, it

'Came o'er the ear like the sweet south  
Breathing upon a bank of violets,  
Stealing and giving odour.'

It seemed the sweetest strain to which he  
had ever listened, and romance and myste-  
ry lent it their magic. His eyes kindled  
at the sounds; and when Harry saw the  
change that was produced on him, he was  
well pleased to observe it, and he was  
proud also of his daughter's performance,  
and in the simplicity and fulness of his heart  
he said—

'Thou mayest amuse the gentleman  
with thy music every day child, or thou  
mayest read to him, to make him as com-  
fortable as we can. Only he must ask  
thee no questions, and thou must answer  
him none. But I can trust to thee.'

From that moment Augustus no longer  
wearied for the days of his captivity to  
pass away, and he retired to rest, or rather  
to dream of the veiled songstress, and to  
conjure up a thousand faces of youth and  
beauty which might be like her face—for  
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temples; with the soft blue eyes where  
affection smiled, and the flaxen tresses were  
parted on the brow—but he knew not which  
might be like hers on whom his imagination  
dwelt.

Fanny promised to obey her father's in-  
junctions, but fears for his safety, and the  
danger in which he was placed, banished  
every other thought. The books, the 'sam-  
pler,' every thing that could lead the stran-  
ger to a knowledge of the name of his  
keepers, or of the place where he was, was  
taken out of the room.

Harry, muffing up his face, returned to  
the apartment where the wounded man  
was, and supporting him on his arm he led  
him to that which he was to occupy. He  
then took the bandage from his eyes, and  
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